

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jacqueline Asencio	Team: Team # 1	CCRB Case #: 200903865	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 03/09/2009 3:30 PM	Location of Incident: § 87(2)(b)	Precinct: 07	18 Mo. SOL 9/9/2010	EO SOL 9/9/2010	
Date/Time CV Reported Mon, 03/09/2009 5:38 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/13/2009 2:39 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Robert Galarza	18301	944222	007 PCT
3. POM Joseph Federico	13974	944261	007 PCT
4. SGT Levon Holley	02054	923959	007 PCT
5. POM Michael Wong	01222	934261	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joseph Federico	Abuse: At § 87(2)(b) in Manhattan, PO Joseph Federico stopped § 87(2)(b)	§ 87(2)(b)
B.POM Robert Galarza	Abuse: At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b)	§ 87(2)(b)
C.POM Joseph Federico	Abuse: At § 87(2)(b) in Manhattan, PO Joseph Federico stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
D.POM Robert Galarza	Abuse: At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b) and § 87(2)(b)	§ 87(2)(b)
E.SGT Levon Holley	Force: At § 87(2)(b) in Manhattan, Sgt. Levon Holley used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Michael Wong	Force: At § 87(2)(b) in Manhattan, PO Michael Wong used physical force against § 87(2)(b)	§ 87(2)(b)
G. An officer	Off. Language: At § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H. An officer	Discourtesy: At § 87(2)(b) in Manhattan, an officer spoke obscenely and/or rudely to § 87(2)(b)	
I.POM Robert Galarza	Force: At § 87(2)(b) in Manhattan, PO Robert Galarza used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint by phone with the Internal Affairs Bureau on March 9, 2009. The complaint was referred under log number § 87(2)(b), and it was received at the CCRB on March 13, 2009. On March 9, 2009, at approximately 3:30pm, § 87(2)(b) reported to police that § 87(2)(b)'s cell phone was stolen by § 87(2)(b) and § 87(2)(b) at § 87(2)(b) et in Manhattan. PO Joseph Federico and PO Robert Galarza canvassed the location and observed the four men at a bus stop at 3rd Street and Avenue D. The following allegations resulted:

- **Allegation A- Abuse of Authority:** At § 87(2)(b) in Manhattan, PO Joseph Federico stopped § 87(2)(b)
- **Allegation B-Abuse of Authority:** At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b)
§ 87(2)(g)
- **Allegation C- Abuse of Authority:** At § 87(2)(b) in Manhattan, PO Joseph Federico stopped § 87(2)(b) and § 87(2)(b)
- **Allegation D-Abuse of Authority:** At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b) and § 87(2)(b)
§ 87(2)(g)
- **Allegation E- Force:** At § 87(2)(b) in Manhattan, Sgt. Levon Holley used physical force against § 87(2)(b)
- **Allegation F- Force:** At § 87(2)(b) in Manhattan, PO Michael Wong used physical force against § 87(2)(b)
§ 87(2)(g)
- **Allegation G- Offensive Language:** At § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.
- **Allegation H- Discourtesy:** At § 87(2)(b) in Manhattan, an officer spoke obscenely and/or rudely to § 87(2)(b)
§ 87(2)(g)
- **Allegation I- Force:** At § 87(2)(b) in Manhattan, PO Robert Galarza used physical force against § 87(2)(b)
§ 87(2)(g)

Results of Investigation

Civilian Statements

Complainant: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black female who has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed in person at the CCRB on March 24, 2009 (encl. 14a-14c). On March 9, 2009, § 87(2)(b) received a call from a neighbor, § 87(2)(b) telling her that her son, § 87(2)(b) was being beat up by the police. § 87(2)(b) looked out the window from her apartment and saw approximately fifty police officers and § 87(2)(b) in front of § 87(2)(b). § 87(2)(b) stated that nothing was obstructing her view and she was ten stories up at the time. § 87(2)(b) saw § 87(2)(b) standing against the passenger side of a marked police vehicle (license plate unknown) with an unidentified officer holding his sweater upward to his neck, pushing it to the side with one hand by his ear as another unidentified officer had § 87(2)(b)'s handcuffed arms hoisted upward. The officers were moving § 87(2)(b) side-to-side. A third unidentified officer standing to the side of § 87(2)(b) placed his hand on top of § 87(2)(b)'s head, pushed and shoved him twice with his knee on his side, and shoved him inside the police vehicle. When § 87(2)(b) went downstairs, all the officers were gone.

Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) black male who is 5'9" tall, weighs 155 pounds and has brown hair and brown eyes.

CCRB Testimony

§ 87(2)(b) was interviewed in person at the CCRB on March 24, 2009 (encl. 13a-13e). On March 9, 2009, at approximately 3:30pm, § 87(2)(b) had just exited his apartment complex with his friend, § 87(2)(b) and walked to the uptown bus stop located on § 87(2)(b) in Manhattan. At the time, § 87(2)(b) was wearing a red sweater with a gray stripe down the arms, jeans, blue sneakers, and a red/blue/tan hat. § 87(2)(b) was waiting for the bus for less than five minutes when it arrived and § 87(2)(b) got on. When the bus left, a marked police vehicle pulled up at exactly the same spot where the bus stopped and two uniformed officers, later identified as PO Joseph Federico and PO Robert Galarza from the 7th Precinct, exited the vehicle. When the officers got out of the vehicle, § 87(2)(b) stopped and so did § 87(2)(b) and § 87(2)(b) who were already at the bus stop. § 87(2)(b) stated that he did not remember what the other three males were wearing at the time.

PO Galarza approached § 87(2)(b) with one hand extended forward in the air as to say, "Hold." PO Galarza asked § 87(2)(b) "Where are you coming from? How long have you been standing there? What is your name? Do you know anything about a cell phone? Anything stolen?" During this time, PO Federico was asking the same questions to the other men. PO Galarza began to ask the men for their names, who had identification, where they were coming from, and if they knew each other. § 87(2)(b) tried to answer every question that he could and told the officer his name and address. PO Galarza spoke into his radio and said that he and his partner had four men stopped for the robbery. The officer also radioed what § 87(2)(b) was wearing and stated that he was the one who committed the crime. PO Galarza told the group that they were going to bring § 87(2)(b) in a police vehicle and told the group, "Hold still."

Approximately five to ten minutes later, another marked police vehicle arrived at the location with § 87(2)(b) Sgt. Levon Holley and PO Jared Badillo, both from the 7th Precinct, exited the second patrol vehicle. PO Galarza approached § 87(2)(b) who was sitting in the back of the second patrol vehicle and spoke to him. § 87(2)(b) told the officer that the men they had stopped were not the ones who committed the crime. PO Galarza returned to the men and told them that they had to wait until they received further instructions from their sergeant. § 87(2)(b) told the officer, "What the hell? We did not do it. Why the hell are we still stopped for? You are wasting our time. I'm out of here." An officer told § 87(2)(b) "Hold on." § 87(2)(b) tried to walk away but Sgt. Holley grabbed § 87(2)(b)'s arm and wrist, placed him in handcuffs, and threw him inside the police vehicle. § 87(2)(b) stated that § 87(2)(b) was not yelling or cursing at the officers "too much." The officers then told everyone else, "Wait one second." § 87(2)(b) told the officers, "I'm off. I got things to do" and walked away. PO Galarza, PO Federico, Sgt. Holley, and PO Badillo did not say anything to § 87(2)(b) as he walked away.

§ 87(2)(b) walked toward § 87(2)(b) and crossed the street. During this time, the officers did not follow him. However, when § 87(2)(b) looked back, he saw approximately thirty male and female uniformed officers running toward him from the original location of the stop. When § 87(2)(b) saw the officers running toward him, he "speed walked" to § 87(2)(b). Once inside the apartment complex, § 87(2)(b) took the stairs to get to the 10th floor. § 87(2)(b) was between the first and second floor when PO Michael Wong from the 7th Precinct grabbed him by the back of his hoodie and pulled him back. PO Wong dragged § 87(2)(b) out of the staircase to the elevators, which are located approximately two to three steps from the staircase. The officer then pushed him face-forward against the elevator and lifted him up against the wall.¹ During this time, § 87(2)(b) denied that he was resisting.

At that point, § 87(2)(b) felt an elbow against his spine and heard officers saying, "Get on the floor." § 87(2)(b) was unable to get on the floor since he was off the ground. PO Wong then slammed § 87(2)(b) to the floor facedown and pinned him down with his hands and a knee on his back. § 87(2)(b) then mentioned that the officers had a "couple of shots" at him. § 87(2)(b) stated that he did not move his body in any way during this time and he did not resist the officers. During this time, § 87(2)(b) was screaming at the officers saying that his back was hurting him.

An officer asked § 87(2)(b) why he fled and where was he going. An officer, who § 87(2)(b) was unable to identify, told § 87(2)(b) "Nigger, where are you going? You think we are stupid, you asshole. This is what you get for running."² An unidentified older white male uniformed officer picked § 87(2)(b) up off the ground, grabbed his arm, dragged him down one flight of stairs, and asked him, "Why you stealing phones? Why are you robbing people?" During this time, § 87(2)(b) was not in handcuffs and another officer was holding him from behind. Once § 87(2)(b) was outside the building, the unidentified older white male uniformed officer handed him over to PO Galarza. PO Galarza then slammed § 87(2)(b) against the vehicle and placed him in handcuffs. § 87(2)(b) was taken to the stationhouse and charged with § 87(2)(a) 160.50 resisting arrest. § 87(2)(b) stated that his lower back hurt after the incident and he had bruises but he did not go to the hospital or doctor and he did not get any medical treatment at the stationhouse.

¹ Later in the interview, § 87(2)(b) stated that he was slammed against the elevator. § 87(2)(b) stated that his feet were off the ground and that he was pinned against the wall with his head to the side. Later in the interview, § 87(2)(b) mentioned that PO Wong placed his forearm across his neck and choked him. § 87(2)(b) stated that he could not breathe. Earlier in the interview, § 87(2)(b) stated that an officer wearing a white shirt choked him and dragged him down the stairs.

² Earlier in the interview, § 87(2)(b) did not mention the offensive remark and the discourtesy.

Witness: § 87(2)(b)

- § 87(2)(b) provided a brief phone statement to the CCRB on April 2, 2009 (encl. 11a) § 87(2)(b) is acquainted with § 87(2)(b) since they both reside in the same building.

CCRB Testimony

On March 9, 2009, § 87(2)(b) was inside her apartment when she heard car doors slamming. § 87(2)(b) approached her window and saw approximately ten police vehicles and approximately nine uniformed police officers running inside § 87(2)(b). § 87(2)(b) stated that she was six floors up in the building and nothing was obstructing her view. § 87(2)(b) then observed possibly three white male police officers holding § 87(2)(b) as he was in handcuffs. § 87(2)(b) stated that she could not say how long the officers were inside the building before the three officers escorted § 87(2)(b) out of the building. The officers escorted § 87(2)(b) to the street to the police vehicles. After the officers and § 87(2)(b) walked to a certain point, § 87(2)(b) could not see anymore. At that point, § 87(2)(b) called § 87(2)(b) and told her that she believed officers were arresting her son. A minute later, the officers placed § 87(2)(b) inside the police vehicle. § 87(2)(b) did not mention that she observe the officers using physical force against § 87(2)(b).

Attempts to Contact Victims

§ 87(2)(b) testified that he was stopped with § 87(2)(b) and § 87(2)(b) at § 87(2)(b). The undersigned called § 87(2)(b) on May 12, May 15, May 21, May 29, and June 2, 2009, and left him messages asking him to contact the undersigned regarding this case. The undersigned mailed § 87(2)(b) “please call” letters on April 28 and May 21, 2009. On September 1, 2009, the undersigned mailed “please call” letters to § 87(2)(b) and § 87(2)(b). The undersigned searched 411.com for phone numbers for the two men. The search yielded negative results as did the Lexis Nexis searches. On September 15, 2009, the “please call” letter sent to § 87(2)(b) was returned by the United States Post Office. It stated, “Return to Sender.” The undersigned mailed § 87(2)(b) a final “please call” letter. As of this date, neither § 87(2)(b) nor § 87(2)(b) have contacted the undersigned regarding this complaint.

Attempts to Contact Civilians

Since § 87(2)(b) was arrested at the same time and location as § 87(2)(b) the undersigned called her on April 21, June 12, June 16, June 18, and June 23, 2009, and left her messages asking her to contact the undersigned. The undersigned mailed her “please call” letters on April 21 and June 2, 2009. On April 22, 2009, the undersigned spoke to § 87(2)(b) a witness identified by § 87(2)(b). § 87(2)(b) informed the undersigned that she did not observe any incident. On May 28, 2009, the undersigned called § 87(2)(b) and left him a message. The investigator also mailed him a “please call” letter. On May 1, 2009, the undersigned received a voicemail message from Julie Drake, the mother of § 87(2)(b). She informed the undersigned that she did not want her son involved in this investigation. On June 2, June 5, June 12, June 16, and June 18, 2009, the investigator called § 87(2)(b) and left her messages asking her to contact the undersigned. On June 2, 2009, the undersigned used the reverse phone number search engine for an address for § 87(2)(b). The phone number was listed to a cell phone.

Subject Officer: PO JOSEPH FEDERICO

- # Memo Book

OLBS Worksheet: PO Joseph Federico

PO Galarza

CCRB Testimony

PO Galarza, Sgt. Holley, and other officers stayed at the location with the four men as PO Federico got back in his vehicle to pick up § 87(2)(b) and § 87(2)(b) to bring them over to the location. PO Federico brought the civilians to the scene for a “show up” and they identified § 87(2)(b) and § 87(2)(b). Once § 87(2)(b) and § 87(2)(b) identified § 87(2)(b) and § 87(2)(b) an officer told the men, “Turn around and place your hands behind your back.”

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scene, PO Federico observed § 87(2)(b) resisting arrest by flailing his arms PO Federico observed other officers attempting to place § 87(2)(b) in handcuffs. The officer stated that he did not observe any officer use excessive force on § 87(2)(b) and stated that he was only there for a few seconds. PO Federico stated that he did not know which officers effected § 87(2)(b)'s arrest.

Once PO Federico arrived at § 87(2)(b) he observed § 87(2)(b) in handcuffs being escorted out of the building. PO Federico stated that he never entered the building, and stated that he did not remember who was escorting § 87(2)(b) outside the building. § 87(2)(b) was transported in another sector car, and PO Federico processed his and § 87(2)(b)'s arrest at the stationhouse. The officer stated that at the scene he did not touch or speak to § 87(2)(b). PO Federico stated that he did not observe any injuries on § 87(2)(b) or on § 87(2)(b).

PO Federico stated that he did not observe any officer grab § 87(2)(b) slam him against an elevator, drag him down the stairs, and slam him to the ground and against a police vehicle. PO Federico stated that he did not see an officer hit § 87(2)(b) or place him in a chokehold. PO Federico did not hear any officer make a remark to § 87(2)(b) based on race and he did not hear any officer speak profanely toward him.

Subject Officer: PO ROBERT GALARZA

- § 87(2)(b)-year-old Hispanic male, height 5'10" tall, weight 180 pounds, black hair and brown eyes.
- On March 9, 2009, PO Galarza was assigned to the 7th Precinct, patrol sectors D and E. He worked from 3:00pm to 11:35pm with PO Joseph Federico in uniform in a marked vehicle.

Memo Book

PO Galarza noted the same memo book entries as PO Federico with the following exception. At 4:10pm, he wrote, § 87(2)(b) foot pursuit, apprehended inside § 87(2)(b) with Sgt. Holley and PO Wong" (encl. 17a-17c).

CCRB Testimony

PO Galarza was interviewed at the CCRB on August 4, 2009 (encl. 18a-18c). § 87(2)(g). As PO Galarza was driving the marked police vehicle, he saw three males that matched the description. At that point, PO Galarza and PO Federico decided to stop § 87(2)(b) and § 87(2)(b). PO Galarza stated that § 87(2)(b) was also standing by the men and looked like he was part of their group. As the men were stopped at the bus stop, PO Galarza told the men to "Stop" in case one of them decided to leave.³ They complied.

PO Galarza and PO Federico exited their vehicle and told the men that they were stopping them because they fit the description of individuals who had just committed a robbery. The officers asked the men for their identification, but PO Galarza did not recall if they produced the IDs. The men acted nervous and were fidgeting refusing to keep their hands out of the pockets after PO Galarza told them to do so.

§ 87(2)(b) refused to provide his identification to PO Galarza and proceeded to act belligerent by cursing at him saying, "I'm not giving you fuckin' ID. I don't have fuckin' ID."

³ Earlier in the interview, PO Galarza stated that he and his partner did not tell the men to "Stop" because they were already stopped at the bus stop.

Why the fuck are you guys always bothering me?” PO Galarza was the one who interacted with him as PO Federico returned to the vehicle to get § 87(2)(b). During this time, Sgt. Holley, his operator, PO Jared Badillo, and several uniformed officers arrived at the scene. Sgt. Holley also spoke to the men and was trying to get their identification but § 87(2)(b) continued to curse and Sgt. Holley ordered him to be placed under arrest. PO Galarza did not effect the arrest of § 87(2)(b) and stated that he did not know which officer handcuffed the man. PO Galarza stated that he did not observe any officer use physical force against § 87(2)(b). During this time, the other men were still acting nervous.

PO Galarza approached § 87(2)(b) after he was identified by § 87(2)(b) and without saying a word, § 87(2)(b) fled toward § 87(2)(b). PO Galarza and Sgt. Holley pursued § 87(2)(b) on foot, but PO Galarza did not recall if PO Federico pursued § 87(2)(b) as well. PO Galarza and Sgt. Holley told § 87(2)(b) “Stop” as they pursued him. PO Galarza did not recall if any other officers pursued § 87(2)(b) on foot with them.

As he followed pursuit, PO Galarza lost sight of § 87(2)(b) as he ran around a gate by the rear of the building. PO Galarza also stated that he lost sight of Sgt. Holley as well. As PO Galarza ran toward the gate, a pedestrian told the officer that § 87(2)(b) ran inside § 87(2)(b). PO Galarza ran up to the second floor and observed that § 87(2)(b) was already in handcuffs and was standing with Sgt. Holley and PO Wong. PO Galarza stated that § 87(2)(b) was on the second floor and not on the stairwell. He also mentioned that there were no other officers present during this time. PO Galarza stated that he did not have any physical contact with § 87(2)(b) at any time. The officer explained that Sgt. Holley was in front of him during the foot pursuit and that it took him approximately one minute to catch up to the sergeant. PO Galarza stated that he did not know when PO Wong arrived on the scene.

PO Galarza did not observe any injuries on § 87(2)(b) and did not hear him complain of any injuries. Additional officers arrived on the second floor after PO Galarza, but he did not recall any of them by name. PO Galarza stated that Sgt. Holley and PO Wong did not mention anything regarding § 87(2)(b)'s apprehension. PO Galarza did not recall who escorted § 87(2)(b) out of the building and did not observe PO Federico at the scene. § 87(2)(b) was then taken to the stationhouse.

PO Galarza denied that he or any other officer slammed § 87(2)(b) against an elevator, police vehicle, or the ground. He denied that he or any other officer punched or hit § 87(2)(b) or dragged him down the staircase. PO Galarza denied that he cursed at § 87(2)(b) or made remarks to him based on race. The officer also stated that he did not place § 87(2)(b) in a chokehold nor did he see any other officer doing so.

Subject Officer: SGT. LEVON HOLLEY

- § 87(2)(b)-year-old black male, height 5’10” tall, weight 180 pounds, black hair and brown eyes.
- On March 9, 2009, Sgt. Holley was assigned as the patrol supervisor. He worked from 2:50pm to 11:47pm by himself in a marked police vehicle.

Memo Book

Sgt. Holley had the same memo book entries as PO Federico and PO Galarza (encl. 19a-19b).

CCRB Testimony

Sgt. Holley was interviewed at the CCRB on October 7, 2009 (encl. 20a-20b). § 87(2)(g)

shoved § 87(2)(b) with his knee. Neither PO Wong nor Sgt. Holley punched § 87(2)(b) or placed him in a chokehold.

§ 87(2)(b) was out of breath and did not say anything to the officers. PO Wong did not have handcuffs with him at the time, so Sgt. Holley handcuffed him. No other officers were present when § 87(2)(b) was handcuffed, but more officers arrived approximately five seconds later. PO Wong was out of breath, and after § 87(2)(b) was placed on the ground he did not pay attention to what was going on. PO Wong did not observe injuries on § 87(2)(b) and did not hear him complain of injuries. Neither PO Wong nor Sgt. Holley used profanity, and neither made comments based on race. PO Wong could not recall who escorted § 87(2)(b) down the stairs, and he did not personally make physical contact with § 87(2)(b) after he was removed from § 87(2)(b).

NYPD Documents

Sprint

On March 9, 2009, § 87(2)(b) called the police and reported that a group of males slammed her friend, § 87(2)(b) to the ground and took his cell phone. At 3:41pm, § 87(2)(b) reported that the male black perpetrator was wearing a maroon sweatshirt with a white stripe down the arm, is approximately 5'10" and is standing at the M14D bus stop. At 3:44pm, § 87(2)(b) reported that the police are across the street and the perpetrators are standing next to the police vehicle. At 3:45pm, Sector D reported four stopped on northeast corner of § 87(2)(b). At 3:58pm, it was reported "foot pursuit." At 3:59pm, sergeant on patrol reported that the perpetrator is in custody inside of § 87(2)(b) (encl. 23a-23g).

Roll Call

According to the 7th Precinct roll call, Sgt. Holley was assigned as the patrol supervisor and PO Jared Badillo was assigned as the sergeant's operator. Sgt. Holley and PO Badillo were assigned to vehicle number 5302. PO Joseph Federico and PO Robert Galarza were assigned to Sectors D and E in marked vehicle number 1458 (encl. 24a-24b).

Command Log

According to the command log, PO Federico arrested § 87(2)(b) for § 87(2)(a) 160.50 resisting arrest at the corner of § 87(2)(b) at 3:54pm. § 87(2)(b) was taken to Central Booking at 9:58pm. The command log indicates that PO Federico arrested § 87(2)(b) for § 87(2)(a) 160.50 resisting arrest at § 87(2)(b) at 4:10pm. The command log described § 87(2)(b)'s physical and mental condition as apparently normal. The command log also noted that PO Patrick Lynaugh arrested § 87(2)(b) for § 87(2)(b) at § 87(2)(b) at 4:10pm. § 87(2)(b) and § 87(2)(b) were transported to Central Booking at 9:40pm (encl. 25a-25b).

Stop, Question, and Frisk Log

The stop, question, and frisk log yielded negative results for § 87(2)(b) and § 87(2)(b) (encl. 26a-26c).

Arrest Photograph

§ 87(2)(b)'s arrest photograph shows no visible injuries (encl. 28a).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of November 19, 2009 with regard to the incident (encl. 32a).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian CCRB History

- § 87(2)(b) has filed the following CCRB complaints:

- § 87(2)(b)

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Subject Officers CCRB History

- PO Joseph Federico has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 4a).
- PO Robert Galarza has been a member of the service for two years and there are no substantiated CCRB allegations against him. (encl. 5a).
- Sgt. Levon Holley has been a member of the service for ten years and there is one substantiated CCRB allegations against him. The NYPD has yet to reach a disposition in regards to CCRB case number 200816688 (encl. 6a).
- PO Michael Wong has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 7a).

Conclusion

Identification of Subject Officers

- PO Federico and PO Galarza acknowledged that they stopped § 87(2)(b) and § 87(2)(b)
- § 87(2)(b)'s physical description matched PO Wong and the officer's presence was corroborated by Sgt. Holley and PO Galarza's testimony and the OLBS worksheet.
- Sgt. Holley acknowledged that he interacted with § 87(2)(b) on the second floor of § 87(2)(b)

Allegation Not Pleaded

§ 87(2)(g)

At first, § 87(2)(b) testified that he was not placed in a chokehold and then changed his testimony and stated that PO Wong placed him in the chokehold. § 87(2)(b) then changed his testimony again and alleged that a white male wearing a white shirt choked him. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: At § 87(2)(b) in Manhattan, PO Joseph Federico stopped § 87(2)(b)

Allegation B: At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b)

PO Federico and PO Galarza received a radio call regarding a robbery in progress at Columbia Street and East Houston Street. Central provided a description of one of the perpetrators as a black male standing at 5'10" wearing a maroon sweatshirt with a white stripe down the arm standing at the M14D bus stop. § 87(2)(b) testified that he was wearing a red sweater with a gray stripe down his arm and mentioned that he was standing at the uptown bus stop at 3rd Street and Avenue D. Once the officers canvassed the location, they observed § 87(2)(b) and proceeded to stop him since he fit the description provided by § 87(2)(b). According to New York City Police Department Patrol Guide Procedure 212-11, "when a uniformed member of service reasonably suspects a person has committed, is committing or is about to commit a felony or a Penal Law misdemeanor" an officer can "stop a person and request identification and explanation of conduct" (encl. 1a-1d). § 87(2)(g)

According to Kamins, "a 911 call from an identified citizen, describing a person with a gun at a specific location or a person who has just committed a violent crime, will provide the police with reasonable suspicion, especially when the defendant is the only person at the location fitting the description, when the description is sufficiently specific, when the information is corroborated by the officer's observation, or when the suspect is in close spatial and temporal proximity to the crime, or when the defendant is running from the direction of the reported crime" (encl. 2a-2b). § 87(2)(g)

Allegation C: At § 87(2)(b) in Manhattan, PO Joseph Federico stopped

§ 87(2)(b) and § 87(2)(b)

Allegation D: At § 87(2)(b) in Manhattan, PO Robert Galarza stopped § 87(2)(b)

and § 87(2)(b)

§ 87(2)(g)

Allegation E: At § 87(2)(b) in Manhattan, Sgt. Levon Holley used physical force against § 87(2)(b)

Allegation F: At § 87(2)(b) in Manhattan, PO Michael Wong used physical force against § 87(2)(b)

After § 87(2)(b) was identified as the perpetrator in the "show-up," he fled from the police. § 87(2)(b) testified that he "speed walked" away from the scene and mentioned that once he was apprehended an officer asked him why he ran. As § 87(2)(b) was going up the stairs, he alleged that an officer grabbed the back of hoodie, pulled him back, dragged him out of the staircase, pushed him face-forward against the elevator, lifted him up against the wall, and then slammed him facedown on the floor. Once on the ground, § 87(2)(b) alleged that the officers took a "couple of shots" at him. After § 87(2)(b) fled from the scene, PO Wong and Sgt. Holley pursued § 87(2)(b) inside § 87(2)(b). Though PO Wong did not mention that § 87(2)(b) resisted arrest, Sgt. Holley testified that he observed PO Wong struggling with § 87(2)(b) and saw § 87(2)(b) trying to escape from PO Wong. The sergeant testified that once he grabbed § 87(2)(b)

§ 87(2)(b) he, PO Wong, and § 87(2)(b) fell to the floor. § 87(2)(b) continued to resist by flailing his arms at the officers. Sgt. Holley testified that he and PO Wong were able to grab § 87(2)(b)'s hands and wrists and were able to handcuff him without the help of any other officers. § 87(2)(g)

According to *Police Department v. Freeman*, “in effecting an arrest, a police officer is permitted to use reasonable force to take a suspect into custody or to defend himself from the ‘imminent use of physical force’ by another” (encl.3a-3f). § 87(2)(g)

Allegation G: At § 87(2)(b) in Manhattan, an officer made remarks to § 87(2)(b) based upon race.

Allegation H: At § 87(2)(b) in Manhattan, an officer spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(g)

Allegation I: At § 87(2)(b) in Manhattan, PO Robert Galarza used physical force against § 87(2)(b)

Once § 87(2)(b) was escorted outside the building, he alleged that PO Galarza slammed him against the police vehicle. § 87(2)(b)'s mother testified that she observed officers kneeling her son on his side and shoving him inside the police vehicle. § 87(2)(b) testified that she did not observe PO Galarza or any officer using physical force against § 87(2)(b) and stated that she saw the officers placing § 87(2)(b) inside the patrol car. § 87(2)(g)

Team: One

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date